IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 5055 of 2007()

ST.489/2006 of J.M.F.C.,TIRUR
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PETITIONER/ACCUSED:

ABDULLAKUTTY,
S/O.KUNJI HYDRU HAJI, KAIPPALLY HOUSE,
KOLAKKAD P.O., KUTTIPURAM.

BY ADV. SRI.M.H.HANIL KUMAR
SRI.SANU S.PANICKER

RESPONDENTS/COMPLAINANT/STATE:
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1. SUB INSPECTOR OF POLICE,
KUTTIPURAM POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,COCHIN-682031.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682031.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5055 of 2007

Dated this the 13th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner had entered appearance through his counsel. The case was adjourned to 25/6/2007. On that day, the petitioner fell ill and the counsel was duly instructed. But the counsel could not file an application to excuse the absence of the petitioner. Consequently a warrant of arrest was issued by the learned Magistrate against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful but was due to reasons beyond his control. The petitioner is willing to appear before the learned Magistrate on the next date of posting i.e. on 20/08/2007. But he apprehends that he may have to suffer vexation by arrest and detention. He

further apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. I find absolutely no merit in the apprehension aired by the petitioner. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders

before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

6. It is directed that the warrant of arrest issued against the petitioner shall not be executed till 20/08/2007. The petitioner shall appear before the learned Magistrate and seek regular bail on or before that date.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007